



Proposed Cook County Road on the Canal Shores Golf Course in Wilmette: Current Status as of July 1, 2019, and History

The League of Women Voters of Wilmette (“LWV-W”) is a community based, non-partisan organization. The LWV-W strives to promote good governance, civil discourse, and informed public comment on issues of interest to the community. In that effort, the LWV-W undertook to provide factual and detailed information on an issue that has been of interest to the community: a proposed Cook County road over Metropolitan Water Reclamation District (“MWRD”) property that is currently used for the 10th hole of the Canal Shores Golf Course.

The proposed Cook County road would connect a currently vacant, landlocked property (the “Keefe Property”) to Maple Avenue in Wilmette. Representatives for the current owner of the Keefe Property have expressed interest in subdividing it into 4 lots and building a single family home on each lot. The proposed Cook County road is the most recent in a 30 year effort by the current owner to gain access to this property and develop it since acquiring its first interest in the Keefe Property in 1988.

The MWRD property over which the proposed Cook County road to the Keefe Property would run is currently leased to the Wilmette Park District and subleased to the Evanston Wilmette Golf Course Association, which operates the Canal Shores Golf Course. In order to construct the road on this property, Cook County first has to acquire an easement from the MWRD, which the Board of Commissioners of the MWRD (“MWRD Board”) authorized granting on November 15, 2018, in a 5-4 vote. As of July 1, 2019, we are not aware that any actual easement agreement has been executed between Cook County and the MWRD.

The LWV-W expects continued public interest as various government bodies address and consider approving 1) an easement agreement between Cook County and MWRD; 2) bringing this road into the Cook County road program funded by taxpayers; and 3) construction plans for the road and the private development of the Keefe Property to which the road would run.

In the detailed information that follows, the LWV-W has made every effort to provide information that is strictly factual without interpretation or opinion. Citations are provided throughout so that readers can determine where the information came from and seek additional information as they might wish.

As a matter of full disclosure, in November, 2018, LWV-W publicly opposed the MWRD’s granting of an easement to Cook County for this road. Questions or comments about the information provided here should be directed to the co-Presidents at lwwwilmette@gmail.com.

The Keefe Property--Current Ownership and Cook County PINs

The Dick Keefe Development Corporation (“DKDC”) is the current title holder of the Keefe Property per our examination of the Cook County Recorder of Deeds website,¹ although a representative of the Keefe family has spoken in public meetings on behalf of the Keefe Family Trust with respect to the Keefe Property. Throughout this document, the term “Keefe” will refer to either DKDC or the Keefe Family Trust. Richard Keefe stated in an affidavit in 1997 that he formed DKDC in 1988 solely for the purpose of developing the Keefe Property and that his partner in “this venture” is John Cullerton.² Richard Keefe’s son, Joseph Keefe, a resident of Glencoe, has been the Keefe family representative with respect to the Keefe Property in more recent years. John Cullerton still holds an interest in DKDC.³ John Cullerton is, and has been, President of the Illinois Senate since 2009 and an Illinois state senator since 1991; before that he was an Illinois state representative, first elected in 1978.⁴

The Keefe Property now consists of two adjacent parcels with two separate property identification numbers (“PINs”) from Cook County: PIN 05-35-500-003-0000 (the “First Keefe Property”) and PIN 05-35-307-034-0000 (the “Second Keefe Property”). The Keefe Property lies between Maple Avenue in Wilmette and Isabella Street in Evanston, east of the CTA tracks and west of the North Shore Channel. However, the Keefe history with the Keefe Property starts in November 1988, just prior to when DKDC purchased the First Keefe Property, when the Chicago Transit Board declared as surplus certain CTA property linking what was to become the Keefe Property to Maple Avenue in Wilmette.

1988-1999

Chicago Transit Board Declares Certain Chicago Transit Authority (“CTA”) Property to be Surplus, Authorizes Bid Process

On November 2, 1988, the Chicago Transit Board adopted an ordinance declaring certain CTA property running north from the northwest side of what was to be the First Keefe Property to Maple Avenue in Wilmette as “surplus property” and authorizing the sale of that parcel (“CTA Sale Parcel”) in a competitive bid process.⁵ That CTA Sale Parcel had dimensions of 20’ x 627’.⁶

¹ See <https://cookrecorder.com/>, searching the relevant property identification numbers discussed herein.

² See Memorandum in Support of Plaintiff’s Motion for Summary Judgment in *Uhlich v. Village of Wilmette*, No. 90 CH 7300, in the Circuit Court of Cook County, Chancery Division, Attachment 1, Affidavit of Richard A. Keefe dated July 23, 1997. That affidavit did not indicate for how long Senator Cullerton had been Mr. Keefe’s partner at that point.

³ Statement of Economic Interests filed by John Cullerton with the Illinois Secretary of State April 23, 2019.

⁴ See <http://www.senatorcullerton.com>

⁵ See Chicago Transit Board Ordinance No. 007-71, dated July 11, 2007, describing Chicago Transit Board Ordinance No. 88-176, dated November 2, 1988.

⁶ *Id.*

Keefe Purchases First Keefe Property

On December 12, 1988, DKDC purchased the First Keefe Property from successors to a bankrupt railroad.⁷ At this point, the Uhlich Evangelical Lutheran Orphan Asylum, later called Uhlich Children's Home ("Uhlich"), owned the Second Keefe Property and, according to a Uhlich representative, had owned it for approximately 40-50 years.⁸

Chicago Transit Board Authorizes Acceptance of DKDC Bid of \$77K for CTA Sale Parcel

On January 6, 1989, the Chicago Transit Board adopted an ordinance authorizing the acceptance of a bid from DKDC in the amount of \$77.5K for the 20' x 627' CTA Sale Parcel.⁹ DKDC planned to use the CTA Sale Parcel as a driveway running north from the northwest side of a housing development to be constructed on the Keefe Property to Maple Avenue in Wilmette.¹⁰

Keefe and Uhlich Apply to Wilmette Requesting 4-Lot Subdivision on Keefe Property

DKDC and Uhlich, owners at the time of the First Keefe Parcel and the Second Keefe Parcel, respectively, made an application to the Village of Wilmette ("Wilmette") dated February 6, 1989, for a 4-lot subdivision on the Keefe Property.¹¹ The Plan Commission held a hearing on this application on March 14, 1989, and voted to recommend denying their request.¹²

Wilmette Advises Keefe that CTA Sale Parcel Not Wide Enough

At some point during 1989, it appears that Wilmette informed DKDC that the CTA Sale Parcel would not be wide enough for a driveway, requiring a width of at least 27' for a driveway.¹³

Chicago Transit Board Authorizes Grant of Easement Next to CTA Sale Parcel

On October 4, 1989, the Chicago Transit Board adopted an ordinance authorizing the grant to DKDC of an easement of property with dimensions of 7' x 627' next to the CTA Sale Parcel (the "CTA Easement Parcel"), for \$12K,¹⁴ bringing the total price of the CTA Sale Parcel and the CTA Easement Parcel to \$89.5K. Together the CTA Sale Parcel and the CTA Easement Parcel

⁷ See Quitclaim Deed dated December 12, 1988, from CMC Real Estate Corporation to Dick Keefe Development Corporation, concerning PIN 05-35-500-003-0000.

⁸ See Report to the Village Board of Trustees from the Plan Commission regarding Case 89-P-1, application of Dick Keefe Development Corporation and Uhlich Evangelical Lutheran Orphan Asylum requesting approval for a 4-lot development ("1989 Plan Commission Report"). The 1989 Plan Commission Report notes testimony from Mr Thomas Fox, President of Uhlich, noting that the property that was later to become the Second Keefe Property had been given to Uhlich by the Able family approximately 40 to 50 years earlier. 1989 Plan Commissioner Report, 4.25, p. 10.

⁹ See Chicago Transit Board Ordinance No. 007-71, dated July 11, 2007, describing Chicago Transit Board Ordinance No. 89-16, dated January 6, 1989.

¹⁰ See Chicago Transit Board Ordinance No. 007-71, dated July 11, 2007, reciting earlier history of Keefe trying to get access to Keefe Property through CTA property.

¹¹ See 1989 Plan Commission Report, p. 1.

¹² *Id.*

¹³ See Chicago Transit Board Ordinance 007-71, dated July 11, 2007, reciting earlier history of Keefe trying to get access to Keefe Property through CTA property.

¹⁴ See Chicago Transit Board Ordinance No. 007-71, dated July 11, 2007, describing Chicago Transit Board Ordinance 89-141, dated October 4, 1989.

had dimensions of 27' x 627' and ran from the northwest side of the Keefe Property to Maple Avenue.

Wilmette Rejects 4-Lot Subdivision of Keefe Property, and Courts Uphold Rejection in Litigation Brought by Uhlich and Keefe

After DKDC and Uhlich made another application for a 4-lot subdivision on the Keefe Property, Wilmette rejected the request and prevailed in litigation brought by DKDC and Uhlich over that rejection.¹⁵ Wilmette rejected a 4-lot subdivision because it required a 60' public right-of-way.¹⁶ In the litigation, Wilmette indicated that it would likely approve variances for a 1-lot development of the Keefe Property.¹⁷

2001-2008

Keefe Contacts Chicago Transit Board to Complete Sale of CTA Sale Parcel and Grant of Expanded Easement

In 2001, the DKDC contacted the CTA and requested permission to complete the purchase of the CTA Sale Parcel and to expand the length of the CTA Easement Parcel to 7' x 894.5' ("CTA Expanded Easement Parcel"), making the CTA Expanded Easement Parcel run from Maple Avenue in Wilmette to Isabella Street in Evanston.¹⁸

Chicago Transit Board Authorizes Sale of CTA Sale Parcel and Grant of a CTA Expanded Easement to Keefe for a Total Price of \$271.5K

On December 4, 2001, the Chicago Transit Board adopted an ordinance authorizing the sale of CTA Sale Parcel (for \$250K) and a grant of the CTA Expanded Easement Parcel (for \$21.5K), both to DKDC, for a total price of \$271.5K.¹⁹ The ordinance noted that staff have determined that the grant of the easement for the CTA Expanded Easement Parcel "will not impact transit operations, since the [CTA] will retain fee title to the subject property and reserve the right of twenty-four (24) hour access over the subject property for operations and maintenance purposes".²⁰

Wilmette Accepts 2-Lot Subdivision of Keefe Property and Grants Variances

On June 25, 2002, the Village Board of Wilmette voted to approve a tentative plat for a 2-lot subdivision of the Keefe Property in conformance with plans submitted, conditioned upon

¹⁵ See *Uhlich Evangelical et al v. Village of Wilmette*, No. 1--98--1740, 1st IL App District, 3rd Div. (Oct. 13, 1999), affirming No. 90 CH 7300 from Circuit Court of Cook County.

¹⁶ *Id.* at p. 3.

¹⁷ *Id.* at p. 11.

¹⁸ See Chicago Transit Board Ordinance No. 007-71, dated July 11, 2007 (discussing history).

¹⁹ See Chicago Transit Board Ordinance No. 001-204 dated December 5, 2001, enclosed with letter dated December 21, 2001, from Laurie B. Marston, AICP, to John Adler, Village of Wilmette Director of Community Relations, regarding DKDC's request for a 2-lot subdivision of the Keefe Property, which is item 2.1 in the Report to the Board of Trustees from the Plan Commission, which report was considered by the Village Board of Trustees at its meeting on June 25, 2002 (see Minutes of the Regular Meeting of the Board of Trustees of Village of Wilmette, June 25, 2002, Agenda Item 6.194).

²⁰ *Id.*

meeting engineering requirements with respect to utility and drainage easements,²¹ as recommended by Plan Commission Report, 257 Maple Case #2002-P-03.²² The 2-lot plat approved consisted of 4 parcels: The First Keefe Property, the Second Keefe Property, the CTA Sale Parcel and the CTA Expanded Easement Parcel.²³ At that same meeting, the Village Board of Wilmette passed an ordinance granting lot width and impervious surface variances to allow development of the Keefe Property as a 2-lot subdivision, as recommended by the Zoning Board of Appeals, 257 Maple Case #2002-Z-5.²⁴ The variances were conditioned on water service being acceptable to the Village Engineer.²⁵ Access to the Keefe Property would be via a common driveway to Maple Avenue using the CTA Sale Parcel and the CTA Expanded Easement Parcel.²⁶

Keefe Purchases 2nd Keefe Property

On October 8, 2002, DKDC purchased the 2nd Keefe Property from Uhlich.²⁷ DKDC had had a contract to purchase the 2nd Keefe Property from the Uhlich since 2001 contingent upon getting access to the property and permission to build at least one house on the property.²⁸

²¹ Drainage was expected to be to the MWRD interceptor for sanitary sewer and to the MWRD channel for storm connection, both requiring easements east over MWRD property leased to the Wilmette Park District and used for what was at that time the Peter Jans Golf Course (now, the Canal Shores Golf Course). See Report to the Board of Trustees from the Plan Commission regarding Item 6.194, p. 5 and pp. 9-10.

²² See Minutes of Regular Meeting of Board of Trustees of Village of Wilmette, June 25, 2002, Agenda Item 6.194, pp. 16-17.

²³ See Report to the Board of Trustees from the Plan Commission regarding Agenda Item 6.194, Case File Documents 2.1 and 2.4. Note: at this time Keefe did not have title to the Second Keefe Property, the CTA Sale Parcel or an easement with respect to the CTA Expanded Easement Parcel, though Document 2.1 included Letters of Authorization from the CTA and Uhlich Children's Home, and the CTA Ordinance regarding the sale of Parcel 3 (known in this write-up as the CTA Sale Parcel) and an easement agreement for Parcel 4 (known in this write-up as the Expanded Easement Parcel).

²⁴ See Minutes of Regular Meeting of Board of Trustees of Village of Wilmette, June 25, 2002, Agenda Item 6.193, recording the adoption of Ordinance No. 2002-O-46 ("Ordinance 2002-O-46").

²⁵ See Minutes of Regular Meeting of Board of Trustees of Village of Wilmette, June 25, 2002, Agenda Item 6.193, p. 12

²⁶ See Ordinance 2002-O-46 and Chicago Transit Board Ordinance No. 001-204 dated December 5, 2001, enclosed with letter dated December 21, 2001, from Laurie B. Marston, AICP, to John Adler, Village of Wilmette Director of Community Relations, regarding DKDC's request for a 2-lot subdivision of the Keefe Property, which is item 2.1 in the Report to the Board of Trustees from the Plan Commission, which report was considered by the Village Board of Trustees at its meeting on June 25, 2002 (see Minutes of the Regular Meeting of the Board of Trustees of Village of Wilmette, June 25, 2002, Agenda Item 6.194).

²⁷ See Quitclaim Deed dated October 8, 2002, from Uhlich Children's Home to Dick Keefe Development Corporation concerning PIN 05-35-307-034-0000.

²⁸ See Real Estate Contract dated October 16, 2001, between Uhlich and DKDC, enclosed with letter dated December 21, 2001, from Laurie B. Marston, AICP, to John Adler, Village of Wilmette Director of Community Relations, regarding DKDC's request for a 2-lot subdivision of the Keefe Property.

Wilmette Extends Keefe Variance Ordinance Several Times as Keefe Works to Develop Keefe Property

Dating back to December 2002, the Village Board of Wilmette voted to extend the variances approved by Ordinance 2002-O-46 several times over the next four and a half years,²⁹ after requests by DKDC to do so, the last time on June 26, 2007.³⁰ Minutes for that June 26, 2007, meeting reflect that a consultant for DKDC noted difficulty obtaining easements for utilities to supply water and for sanitary sewer and storm sewer discharge, but that DKDC was ready to submit engineering drawings to Wilmette for the storm and sanitary sewers and that water utilities would be supplied by the City of Evanston.³¹

Chicago Transit Board Authorizes Sale of CTA Sale Parcel and Grant of CTA Expanded Easement to Keefe for New Total Price of \$395K

On July 7, 2007, the Chicago Transit Board adopted an ordinance amending its 2001 ordinance concerning transactions with DKDC with updated consideration for the sale of the Sale Parcel (for \$376K) and the easement grant for the CTA Expanded Easement Parcel (\$19K), both to DKDC, for a new total price of \$395K.³² The text of the ordinance contains the same language as the 2001 ordinance about the CTA retaining fee title to the CTA Expanded Easement Parcel and reserving the right of 24-hour access for operations and maintenance purposes.³³

Permit Process Started but Never Completed, CTA Transactions Never Closed

DKDC submitted building permit applications for the two homes in September and October 2007,³⁴ and the Department of Engineering of Wilmette, in a letter dated July 28, 2008, detailed several comments that must be addressed with respect to the grading plan before Engineering Department approval could be provided.³⁵ Nothing in the record indicated that those Engineering Department comments had been met. The variations finally expired in 2008, and DKDC did not apply for another extension of the variations. DKDC never closed on any of the sale or easement transactions concerning CTA property authorized by the Chicago Transit Board in ordinances above. Joseph Keefe later said in 2018 that “development studies revealed insurmountable obstacles” to acting on the easement from the CTA (not mentioning the sale

²⁹ See Minutes of Regular Meetings of Board of Trustees of Village of Wilmette, December 10, 2002 (Agenda item 6.12), June 10, 2003 (Agenda item 6.15), December 9, 2003 (Agenda item 6.14), June 22, 2004 (Agenda item 6.14), June 14, 2005 (Agenda item 6.15), June 27, 2006 (Agenda item 6.17) and June 26, 2007 (Agenda item

³⁰ See Minutes of the Regular Meeting of the Board of Trustees of the Village of Wilmette, June 26, 2007, item 6.18.

³¹ See Minutes of the Regular Meeting of the Board of Trustees of the Village of Wilmette, June 26, 2007, item 6.18, p. 5.

³² See Chicago Transit Board Ordinance No. 007-71 dated July 11, 2007.

³³ See Chicago Transit Board Ordinance No. 007-71 dated July 11, 2007.

³⁴ See Permit Application re 257 Maple, dated September 27, 2007; see also Small Claims Court Complaint filed July 28, 2010, and Answer, Affirmative Defense and Counterclaim filed August 23, 2010, each in Village of Wilmette v. Keefe, in the Circuit Court of Cook County, Municipal Division, 2nd District, Case # 10 M2 001241.

³⁵ See Letter dated July 28, 2008, from Jorge Cruz, PE, Assistant Director of Engineering, Village of Wilmette, to Mr. Bernie Bono, Bono Consulting, Re: Grading Plan for Subdivision 257-259 Maple Ave.

from the CTA), including the CTA's right to take over the roadway at any time,³⁶ although that right had been in the proposed CTA easements since at least when Wilmette first approved the 2-lot subdivision and zoning variances in 2002.³⁷

2014-Current (July 1, 2019)

2014 John Cullerton Email to MWRD Executive Director Discussing Access to Keefe Property over MWRD Property

The MWRD owns property northeast, east and south of the Keefe Property, some of which is leased to the Wilmette Park District and some of which is leased to the City of Evanston ("Evanston"). On November 14, 2014, John Cullerton sent an email to David St. Pierre, who was then the Executive Director of the MWRD. That email, obtained through a FOIA request by an Evanston resident, forwarded an email from Joseph Keefe to John Cullerton, and John Cullerton stated in his email: "This material should be helpful for our meeting on December 9th at 10:30am." The forwarded email from Joseph Keefe said:

- The current Maple street easement limits development to 2 very large lots and houses.
- A conforming roadway - 20 feet with no parking, 28 feet with parking - from Isabella would permit subdivision into 4 and perhaps 5 lots, doubling the value of the land, increasing value and real estate taxes. . . .
- MWRD owns the land between our lot and Isabella. . . .

As we discussed the concept is to buy sufficient land for a road from Isabella to the lot, abutting the CTA Purple Line fence. Important consideration: this unused, disposable property must be purchased as MWRD easement restrictions make useful development nearly impossible. . . .

These are some thought-starters. I can work them into a short presentation for MWRD Executive Director.³⁸

³⁶ See Video of Meeting of MWRD Board, November 15, 2018, starting at minute 56:46.

³⁷ See Chicago Transit Board Ordinance No. 001-204 dated December 5, 2001, enclosed with letter dated December 21, 2001, from Laurie B. Marston, AICP, to John Adler, Village of Wilmette Director of Community Relations, regarding DKDC's request for a 2-lot subdivision of the Keefe Property, which is item 2.1 in the Report to the Board of Trustees from the Plan Commission, which report was considered by the Village Board of Trustees at its meeting on June 25, 2002 (see Minutes of the Regular Meeting of the Board of Trustees of Village of Wilmette, June 25, 2002, Agenda Item 6.194).

³⁸ See Email from Joseph Keefe to John Cullerton, dated November 23, 2014, forwarded in an Email from John Cullerton to David St. Pierre, dated November 26, 2014, obtained by an Evanston resident from the MWRD in a request under the Freedom of Information Act.

July 2015 to May 2016 Keefe and MWRD Seek Wilmette Park District Consent to MWRD Sale of Property or Grant of Easement to Keefe

At several meetings from July 2015-May 2016, the Wilmette Park District Board of Park Commissioners (the “Wilmette Park Board”) and the Real Estate Committee of the Park Board (“WPD RE Committee”) considered requests from Joseph Keefe and/or the MWRD to consent as lessee under the lease from MWRD to the Wilmette Park District to either a sale of property or a grant of an easement from MWRD to Keefe in order to provide access to the Keefe Property.³⁹ At the May 9, 2016, Wilmette Park Board meeting, a MWRD request to consent to an easement to Keefe was, according to the minutes of that meeting, tabled “indefinitely until such time as it is determined that the easement requested is indeed on property leased by the Wilmette Park District from the Metropolitan Water Reclamation District (MWRD).”⁴⁰

2016 Keefe Seeks City of Evanston Consent to Easement of MWRD Property

Keefe next sought Evanston consent to MWRD’s grant of an easement over property leased by the MWRD to Evanston that is located between the Keefe Property and Isabella Street. At a 7th Ward meeting in Evanston on November 3, 2016, a local newspaper, Evanston Now, reported that Joseph Keefe told residents that the MWRD was willing to agree to the easement if Evanston consented.⁴¹ The LWV-W is not aware of any minutes from Evanston City Council meetings indicating that the Evanston City Council voted on this request, nor that Evanston gave consent to the MWRD for the MWRD to grant an easement to Keefe.

2016 MWRD and Cook County Department of Transportation and Highways Partner for Cook County to Request Public Road over MWRD Property to the Keefe Property

At some point in 2016, Cook County Department of Transportation and Highways (“CC DTH”) engaged with MWRD in getting access to the Keefe Property.⁴² The MWRD’s leases with the Wilmette Park District and Evanston both require the lessee to surrender possession of any part of the leased premises if the lessor determines that that part is “required for the construction of highways and roadways . . . for the use of any other governmental agency engaged in the construction of highways or roadways. . . .”⁴³

³⁹ See Minutes from Regular Meeting of Wilmette Park Board, July 13, 2015 (Joseph Keefe in Recognition of Visitors discussed undeveloped land leased by WPD from MWRD, saying his family has been working with MWRD and MWRD requested his family get from WPD a “letter in writing stating that the selling of this property will not interfere with the Wilmette Park District operations”); Minutes from Regular Meeting of Wilmette Park Board, March 14, 2016 (commissioners discussing under “New Business” section of meeting the Keefe family potentially seeking an easement from MWRD and referring the matter to the Real Estate Committee); Agenda from Meeting of WPD RE Committee, April 4, 2016 (Under “Discussion”, MWRD request to grant easement on golf course leased property); Minutes from Regular Meeting of Wilmette Park Board, April 11, 2016 (Under Executive Director and Real Estate Committee reports, noted that MWRD requests WPD defer any action for 30 days as easement requested may not be part of WPD’s lease); Minutes from Regular Meeting of Wilmette Park Board, May 9, 2016.

⁴⁰ Minutes from Regular Meeting of Wilmette Park Board, May 9, 2016.

⁴¹ See “Path to Development Sought Through Evanston,” Evanston Now, November 4, 2016.

⁴² See Video of Board of Metropolitan Water Reclamation District Committee of the Whole Meeting, November 1, 2018 (“11/1/18 C-o-W Video”), minutes 25:35 to 28:13 and 38:01-38:49.

⁴³ See Lease between the Metropolitan Sanitary District of Greater Chicago [(“MSDGC”), predecessor to MWRD], as Lessor, and City of Evanston, as Lessee, dated October 14, 1966, Section 4.06, that was part of the City Council Packet for the Meeting of the City Council of Evanston, May 15, 2017. See also

In later explaining CC DTH's involvement in this matter, John Yonan, Superintendent of CC DTH, in a 2018 MWRD Board committee-of-the-whole meeting, said "it's just been a great partnership with Cook County and the district [MWRD] when we look at ways that there are land that the district owns that just doesn't have access by in some cases a road network. All along the south shore channel there is a lot of leasable land down there that so many companies are coming to the road building industry and Cook County saying if I just had a road there I would double my operations. I'd bring barge traffic up and down the area . . . That comment there is that we just need to be able to see the big picture and be able to address, you know, projects as they come along. . . That is how this started in this particular location [the MWRD property adjoining the Keefe Property] with David St. Pierre back in 2016. . . where then when we looked at the mission of that there is also community development opportunities . . . A type of sustainable roadway . . . that all users of the public way would benefit from. . . that kind of falls in that theme."⁴⁴ When specifically asked to prioritize a road to the Keefe Property among other Cook County road projects, Mr. Yonan responded: "As far as priorities . . . it's one of those . . . that because of our relationship with the district, it's not one of those where I want to say where it ranks . . . we've got a condition-based system of assets that we maintain but we really believe the value of this in the district is something that is important to myself as a leader of the department . . . so I'd like to say it is valuable in that regards."⁴⁵ In response to a question asking why the CC DTH brought an easement request to MWRD, Mr Yonan said "this was brought to me by David St. Pierre as opportunities that I said along with a Robbins development opportunity along with a South Shore canal where there was discussions that 'hey there is this Evanston board meeting that is looking to kind of consider this' and all I have ever spent time and resources was just basically following the information that was handed to me. . ."⁴⁶

It is relevant to note that Cook County does not have any property or road adjoining the Keefe Property or adjoining the MWRD property that adjoins the Keefe Property. Cook County reportedly has no roads in Evanston.⁴⁷ Cook County has no roads in east Wilmette, where the Keefe Property is located, and the nearest Cook County road to the Keefe Property is Lake Avenue going west starting at Ridge Avenue in Wilmette,⁴⁸ roughly 2 miles from the Keefe Property.

letter dated October 10, 2018, of Andrew S. Paine of Tressler LLP, representing Wilmette Park District, to Susan Morakalis, General Counsel of MWRD, quoting Section 4.06 of the Lease between MSDGC, as Lessor, and Wilmette Park District, as Lessee, dated May 6, 1965 (obtained from MWRD through a Freedom of Information Act Request by an Evanston resident).

⁴⁴ See Video of Board of Metropolitan Water Reclamation District Committee of the Whole Meeting, November 1, 2018 ("11/1/18 C-o-W Video"), minutes 25:43 to 26:54.

⁴⁵ *Id.* at minutes 27:41 to 28:14.

⁴⁶ *Id.* at minutes 38:01-38:49.

⁴⁷ See public comments of Michelle Masoncup, Deputy City Attorney for Evanston in Video of MWRD Board Meeting, May 18, 2017, starting at minute 8:05.

⁴⁸ See Map of Village of Wilmette Street Jurisdiction.

The LWV-W sent an email to Superintendent Yonan on April 23, 2019, requesting clarification about why Cook County requested the easement but as of the writing of this document, no response has been received.

2017 MWRD Board Denies Cook County Request for Easement to Isabella Street in Evanston

The MWRD Board on May 18, 2017, voted unanimously against approval of “Authority to grant a 75-year, approximately 28’ x 255’, non-exclusive easement to the County of Cook to construct, install, operate, maintain, repair and remove a public road across the western portion of North Shore Channel Parcel 1.11, north of Isabella Street and east of the CTA railroad tracks in Evanston, Illinois. Consideration shall be a nominal fee of \$10.00.” Voting “Nay” were Frank Avila, Timothy Bradford, Martin J. Durkan, Barbara J. McGowan, Josina Morita, Debra Shore, Kari K. Steele, David J. Walsh, Mariyana T. Spyropoulos.⁴⁹ The easement voted on at this meeting is referred to in this write-up as the “2017 Rejected MWRD Easement” and the North Shore Channel Parcel 1.11 that was proposed for that 2017 Rejected MWRD Easement is referred to in this write-up as the “2017 Rejected MWRD Easement Parcel.”

The 2017 Rejected MWRD Easement Parcel runs from the Keefe Property south to Isabella Street in Evanston, through an undisturbed forest, and is part of property leased by the MWRD to Evanston.⁵⁰

- The City Council of Evanston unanimously adopted Resolution 50-R-17 (“Evanston Resolution”) registering Evanston’s objection to the roadway easement.⁵¹ Michelle Masoncup, Deputy City Attorney for Evanston presented the Evanston Resolution to the MWRD Board and also stated that the County has no existing roadways in Evanston, that the proposed road would be the first County road in Evanston and is a short roadway that would access only private property and as such is for a private, not a public purpose, and that the developer could have had access to the property from the north through earlier CTA transactions.⁵²
- Many residents and community organizations spoke objecting to the easement. No one spoke at the meeting in favor of the easement.⁵³

2018 MWRD Board Approves Cook County Request for Easement to Maple Avenue in Wilmette

The MWRD Board on November 15, 2018, voted 5-4 in favor of approval of “Authority to grant to the County of Cook a 75-year, approximately 60’ x 426’, non-exclusive easement to construct, install, operate, maintain, repair, and remove a public road across the western portion of North Shore Channel Parcel 1.08, south of Maple Avenue in Wilmette, Illinois. Consideration shall be a nominal fee of \$10.00 (Deferred from the November 1, 2018 Board

⁴⁹ See Minutes from MWRD Board Meeting, May 18, 2017, Item 37, File 17-0539.

⁵⁰ See Memorandum to City Council of Evanston from W. Grant Farrar, Evanston General Counsel and Michelle Masoncup, Deputy City Attorney, dated May 10, 2017, recommending adoption of Resolution 50-R-17, and attachments thereto, in City Council meeting packet for May 15, 2017, regular meeting, Item SP1.

⁵¹ See Minutes from Regular Meeting of City Council of Evanston, May 15, 2017, Special Order of Business.

⁵² See Video of MWRD Board Meeting, May 18, 2017, minutes 8:05-9:58.

⁵³ See Video of MWRD Board Meeting, May 18, 2017, minutes 8:05-58:46.

Meeting).” Those voting in favor of the MWRD Easement were: Commissioners Kenneth Dunkin, Martin J. Durkan, Barbara J. McGowan, Kari K. Steele, David J. Walsh. Those voting against were: Commissioners: Frank Avila, Josina Morita, Debra Shore, Mariyana T. Spyropoulos.⁵⁴ The easement voted on at this meeting is referred to in this write-up as the “MWRD Easement” and the North Shore Channel Parcel 1.08 subject to this MWRD Easement is referred to in this write-up as the “MWRD Easement Parcel.”

The MWRD Easement Parcel is part of property currently leased to the Wilmette Park District in a lease expiring in 2032 (the “WPD Lease”), and subleased to the Evanston Wilmette Golf Course Association for use of 7 holes of an 18-hole golf course known as Canal Shores. Other MWRD-owned property is leased to the City of Evanston and is also used for the 18-hole Canal Shores golf course.⁵⁵ The golf course is a community golf course available for anyone to play and has been in existence for 100 years.⁵⁶ The golf course also is open to walkers, nature lovers, birders, cross country skiers and others throughout the year. The Easement Parcel involves a significant portion of the 10th hole of the golf course.⁵⁷

- The WPD adopted Resolution 2018-R-1 on October 10, 2018 (the “WPD Resolution”), stating its opposition to this easement.⁵⁸ Steve Wilson, Executive Director of the Wilmette Park District, presented the WPD Resolution to the MWRD Board on November 1, 2018, along with communications received by the Wilmette Park District from 316 persons all against the MWRD Easement except for one person, the private developer to whose land the easement runs.⁵⁹
- The Evanston Wilmette Golf Association and Canal Shores opposed the MWRD Easement vigorously.⁶⁰
- Various community, environmental and nature groups and individuals also opposed the MWRD Easement, including the League of Women Voters of Wilmette and the League of Women Voters of Evanston.⁶¹

⁵⁴ See Minutes from MWRD Board Meeting, November 15, 2018, Item 42, File 18-1159 <http://mwrld.legistar.com/View.ashx?M=M&ID=649511&GUID=A1F5DD09-9ED1-4A09-956E-D60FBA5662C5>.

⁵⁵ See Legislation Text that is part of MWRD File 18-1159. Also see Wilmette Park District Resolution 2018-R-1, adopted October 10, 2018. <http://mwrld.legistar.com/ViewReport.ashx?M=R&N=Text&GID=17&ID=3300776&GUID=6649969D-38C2-4D74-9614-6AE963CDB009&Title=Legislation+Text>.

⁵⁶ See <https://canalshores.org/course/>.

⁵⁷ See photo at <https://canalshores.org/dontpave10/>.

⁵⁸ See Wilmette Park District Minutes of Regular Meeting of Board of Park Commissioners, October 10, 2018.

⁵⁹ See video of MWRD Board Meeting, November 1, 2018 (“11/1/18 MWRD Board Video”), at minute 50:46 into meeting video.

⁶⁰ <https://canalshores.org/dontpave10>.

⁶¹ For public comments at MWRD Board Meetings, see 11/1/18 MWRD Board Video from minute 18 to hour 1:54 into video and video of MWRD Board Meeting, November 15, 2018 (“11/15/18 MWRD Board Video”) from minute 4 to hour 1:18 into video. We understand from MWRD Board Commissioners at those same meetings that they also received many emails, telephone calls and other communications from members of the public opposed to the MWRD Easement.

- Joseph Keefe, representing Keefe, was the only public commentator supporting the MWRD Easement during over 90 minutes of public comment at the November 1, 2018, MWRD Board meeting and over 60 minutes of public comment at the November 15, 2018 MWRD Board meeting.⁶²

The WPD Lease provides: “If, at any time in the future, any portions of the demised premises are required for the construction of highways and roadways, or adjuncts thereto, such as interchanges, ramps, and access roads, as determined by the Chief Engineer of the Lessor, for the use of any other government agency engaged in the construction of highways and roadways, or adjuncts thereto, then, in such event, it is understood and agreed by the parties hereto, that the Lessee shall surrender possession of such part of the demised premises that may be so required.”⁶³

- Susan Morakalis, General Counsel of the MWRD, said in a public meeting that the WPD Lease provisions and the MWRD Easement language mean that the MWRD Easement must be a public easement paid for and maintained by Cook County at all times.⁶⁴
- Ms. Morakalis made that statement after much inconsistency in the public record as to whether the road to be built over the easement property would be privately or publicly funded.
 - A quarterly report by the Cook County’s Office of Inspector General dated April 13, 2018 (the “OIIG Report”) stated that matter IIG17-0200 was “initiated after receiving a complaint alleging improper motive (bribery)” in the Department of Transportation and Highways’ seeking to acquire an easement from the MWRD for the benefit of a private developer at the behest of an Illinois State Senator. That complaint appears to have been in regard to CC DTH’s request to the MWRD for the 2017 MWRD Rejected Easement. The OIIG Report said the preponderance of the evidence failed to support allegations of improper motive by any Cook County office in proposing the easement for private development, citing among other things the explanation from the Superintendent of Cook County’s Department of Transportation and Highways (Cook County DTH) that “a private entity would own the road and be responsible for funding, building, and maintaining that road.”⁶⁵

⁶² See 11/1/18 MWRD Board Video starting at hour 1:02:28 and 11/15/18 MWRD Board Video starting at minute 56:20 for Joseph Keefe’s public comments in favor of the MWRD Easement.

⁶³ See letter dated October 10, 2018, of Andrew S. Paine of Tressler LLP, representing Wilmette Park District, to Susan Morakalis, General Counsel of MWRD, quoting Section 4.06 of the Lease between MSDGC, as Lessor, and Wilmette Park District, as Lessee, dated May 6, 1965 (obtained from MWRD through a Freedom of Information Act Request by an Evanston resident).

⁶⁴ See video of MWRD Board Committee-of-the-Whole meeting, November 1, 2018 (“11/1/18 COW Video”), at minute 18.27, in response to question asked at minute 18:13. http://mwrld.granicus.com/player/clip/550?view_id=1.

⁶⁵ See OIIG Report, matter IIG17-200, Exhibit B to

- Joseph Keefe stated at meetings of the MWRD Board on both November 1 and November 15, 2018, that the road would be developer-funded.⁶⁶
- John Yonan, Superintendent of Cook County DTH, in response to MWRD Commissioner questions at MWRD Board Committee-of-the-Whole meeting, November 1, 2018, about whether the road would be publicly or privately funded, first acknowledged the confusion, noting that there had been an “evolution” in the easement, then stated multiple times that Cook County would be responsible for building and maintaining the road, but indicated that there may be ways still to be explored for the County to charge impact fees to a developer or get funding from some other federal or state source or for Wilmette to take over the road.
- Ms. Morakalis’s statement also included an affirmative response to a question asking whether any change in who maintains the road, whether by a developer or another government entity, would require coming back to the MWRD board because the Easement is for Cook County to maintain the road.⁶⁷

Cook County DTH Superintendent John Yonan wrote in a letter to Christopher Murray, Head Assistant Attorney for the MWRD: “The easement is for the construction, operation, maintenance, rehabilitation of an access road to reach private property owned by the Keefe Family Trust. . . This road is necessary because the property is land locked and has no public access.”⁶⁸

At the MWRD Board Committee-of-the-Whole meeting of November 1, 2018, Commissioner Avila asked why Mr. Yonan came to the MWRD for the easement and not to the CTA for easement and Mr. Yonan replied: “Honestly, I didn’t know the history of that. So this was brought to me by David St. Pierre. . . I didn’t know the history of years of trying to get this thing negotiated through CTA. So that was enlightening to me today.”⁶⁹ Mr. Avila then said he was deferring the action on the easement vote from the November 1, 2018 agenda (it ended up being voted on at November 15, 2018, meeting) and he asked Mr. Yonan to go to the CTA and ask for an easement. Mr. Yonan made a commitment to follow up with the CTA.⁷⁰

During the MWRD Board roll call vote on the MWRD Easement at the MWRD Board meeting on November 15, 2018, and during the MWRD Board Committee-of-the-Whole meeting on that same date, many of the Commissioners stated their reasons for voting in favor or against the MWRD Easement. Many of the positions expressed by the Commissioners are included below. The LWV-W recommends that readers review the videos of those meetings in order to fully understand the Commissioners’ positions and the discussion.

⁶⁶ See 11/1/18 MWRD Board Video at hour 1:02:28 into meeting video and 11/15/18 MWRD Board Video, at minute 56:20 into video.

⁶⁷ 11/1/18 COW Video at minutes 18:13 to 18:57.

⁶⁸ See Letter from John Yonan to Christopher Murray dated August 28, 2018, which was contained in the Meeting Packet for the Regular Meeting of Park Board of Commissioners dated October 10, 2018

⁶⁹ See 11/1/18 COW Video at minutes 38:01 to 38:57.

⁷⁰ See 11/1/18 COW Video at minutes 39:02 to 39:21.

Some of the MWRD Board Commissioners who approved the Easement on November 15, 2018, reasoned that an intergovernmental request (in this case by CC-DTH) deserved deference, and that the MWRD should not be part of the debate:

- Walsh: “[A]s a water utility, we should not be at the center of this debate. . . . If I thought for one minute that this is in the best interest to insert ourselves in something that we have no business being part of. . . . then I would be for it. I simply do not believe that is the case. . . . We are not here to approve a road. . . . We are here to do something that we have done for 130 years: grant an easement to another governmental agency. . . . [W]e should not be in the center of this debate. And by saying no to this easement we are putting ourselves firmly into something that we don’t put ourselves in.”⁷¹
- Steele: “The fact remains, however, that we are voting today to approve an easement requested by the Cook County Department of Transportation, a sister governmental agency. And denying that would set a dangerous precedent of intergovernmental dysfunction that I’m just not sure I want to be a part of.”⁷²
- Dunkin: “This action is very very much in compliance with what has gone on throughout the history of this agency by allowing other governmental entities to make a decision on whether they take action of easement and other matters. . . .”⁷³

Some MWRD Board Commissioners argued that the approval of the easement is the first step in the process, some of them saying that if there is a battle over the road it should be in Wilmette.

- Steele: “There are many additional requirements, permits and letters of approval required before the road can be built. . . . There are plenty of other steps and opportunities for all the constituents involved here today to engage in a process. . . . This is the first step. . . . This is a local issue. . . . that should be decided locally. The Village of Wilmette should decide if a road should be built in the Village of Wilmette.”⁷⁴
- Walsh: “The battle is going to move forward. . . . This battle is between Wilmette, the Keefe family trust, Cook County, and to the extent that they share the golf course, folks in Evanston and quite frankly anyone who has a concern about it. . . . We’re not here to decide if this is a good idea.”⁷⁵
- Durkin: “I think that there is much more debate going forward. Anything we do here today . . . will not cost the taxpayers a dime. It will only open up the doors for more opportunity to debate.”⁷⁶

⁷¹ See Video of Board of Metropolitan Water Reclamation District Committee of the Whole Meeting, November 15, 2018 (“11/15/18 C-o-W Video”), minutes 12:13 to 13:47. http://mwrdd.granicus.com/player/clip/556?view_id=1.

⁷² See 11/15/18 MWRD Board Video, hour 1:45:54 to 1:46:14.

⁷³ See 11/15/18 MWRD Board Video, hour 1:37:49-

⁷⁴ See 11/15/18 MWRD Board Video, hour 1:46:15 to 1:48:04.

⁷⁵ See 11/15/18 C-o-W Video, minutes 13:03-14:20.

⁷⁶ See 11/15/18 C-o-W Video, minutes 17:50-18:05.

At least one MWRD Board Commissioner noted that objections over taxpayer money being spent on this road is an issue for Cook County. If people have a problem with Cook County spending money on this road, people should complain to Cook County.

- Walsh: “It’s not our job to try to get into where the County is going to find its money. If the money is not there, there are 17 . . . County Board members. . . That’s their issue, that’s not our issue.”⁷⁷

Some of the MWRD Commissioners who voted against the MWRD Easement said:

- Avila: “This easement goes against our mission and policy. And I support an open, green space and public use of land along the North Shore Channel.”⁷⁸
- Morita: “I believe this easement goes against our mission of protecting green space.”⁷⁹
- Shore: “You know, we don’t have to listen to the residents who contacted us, we don’t have to be responsive to the people who care about this . . . but why wouldn’t we be? We don’t have to respect the longstanding beneficial relationship that this agency has had with the lessees, two different governmental entities: the Wilmette Park District and the City of Evanston, who had a lease with this land since the mid-60s, have been operating it as a community golf course since 1919. . .but why wouldn’t we? We don’t have to respect our own policy, adopted unanimously by this Board in 2005 to keep all lands along the North Shore Channel as open, green space for recreational use. In fact we used that policy to object to a proposal to build a pump station along the bike path in Skokie . . . but why wouldn’t we? We don’t have to respect the past practice of never granting an easement against the wishes of tenants or leaseholders, including a prior easement request from the same government agency, but why wouldn’t we? We don’t have to respect our own responsibility to be good stewards of public resources, not only land and water, but also public funds, because this easement request if granted will result in the expenditure of hundreds of thousands of dollars, possibly much more, by Cook County taxpayers, and the Water Reclamation district will receive a payment of \$10.”⁸⁰ As far as those saying this is a local issue: I respectfully disagree. This agency owns the land, holds it in trust for all people, past, present and future in Cook County. And if we grant this easement we are opening the door to a road being built where no one wants it. We are opening the door to taxpayers paying for it. . . And we have no guarantees that other entities would stop it. . .We would be setting . . . a dangerous precedent . . . with respect to how we treat our lessees, and violating our own board policy about how we protect land along the North Shore Channel.”⁸¹

The LWV-W recommends readers review the MWRD’s Comprehensive Land Policy, a link to which is provided in the footnote below. It may be of particular interest to note the following MWRD Policy on North Shore Channel Property: The MWRD’s stated policy with respect to all of its lands contiguous to the North Shore Channel from Devon Avenue to Wilmette Avenue,

⁷⁷ See 11/1/18 C-o-W Video, minutes 36:53-37:08.

⁷⁸ See 11/15/18 MWRD Board Video, hour 1:37:35 to 1:38:08

⁷⁹ See 11/15/18 MWRD Board Video, hour 1:38:42 to 1:38:48.

⁸⁰ See 11/15/18 MWRD Board Video, hour 1:39:25 to 1:41:20.

⁸¹ See 11/15/18 MWRD Board Video, hour 1:41:21 to 1:42:20.

including the Easement Parcel, is for it to be “dedicated and used exclusively as open green space and public recreational use.”⁸²

May 2019--MWRD Sends Draft of Easement Agreement to Cook County

MWRD Commissioner Debra Shore reported in an email to constituents that “the County contacted MWRD in April and has sought to consummate the agreement. I believe that MWRD’s general counsel has placed several conditions on the easement that will be protective of the environment and of [MWRD’s] interests. MWRD conveyed this draft to the Cook County Department of Transportation and Highways on May 3. We’ve heard nothing back yet as I imagine the County attorneys are reviewing the language. I will certainly inform you once we know more.”⁸³

⁸² See MWRD Comprehensive Land Policy, Section 3.4.B.1.

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwing_nnn6biAhUSCKwKHXBMC_4QFjABegQIBBAC&url=https%3A%2F%2Fwww.mwrld.org%2Ffirj%2Fgo%2Fkm%2Fdocs%2Fdocuments%2FMWRD%2Finternet%2FDepartments%2FLaw%2Fdocs%2FLand%2FComprehensive_Land_Use_Policy.pdf&usg=AOvVaw357H-KF1DXyhPDJEeVAvg1.

⁸³ Email from Debra Shore re: Spring Update, dated May 21, 2019.